IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6961 of 1989
WITH
SPECIAL CIVIL APPLICATION No 3396 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT MEDICAL LIBRARY ASSOCIATION

Versus

STATE OF GUJARAT

Appearance:
1. Both Special Civil Applications -
MR MUKUL SINHA for MS HIMALI M DAVE for Petitioners
MS DS PANDIT, AGP for Respondent No. 1-2

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 28/08/2002

ORAL JUDGEMENT

1. These petitions involve identical questions of fact and law and hence they are heard

together and now they are being disposed of by this common judgment.

2. The petitioners are working as Librarians in the Medical/Dental/Nursing colleges in the State of Gujarat. Petitioner no. 1 is association of Librarians serving in the Government colleges affiliated to different universities in the State. The grievance of the petitioner is that right from the beginning they have been meted out discriminatory treatment. Their say is that initially the Librarians of different colleges affiliated to the universities in the State were extended the benefit of upper revision of the pay-scales from time to time. The Librarians of the Medical/Dental/Nursing Colleges were deprived of the said benefit. It is their grievance that as Librarians of the medical educational institutes, their work load was heavier than the Librarians of other educational institutions. However, in the matter of pay-scales those librarians were placed on a better footing than the Librarians of the medical educational institutions. It appears that later on the University Grant Commission (UGC) prescribed pay-scales and the same were adopted by the State Government and the Librarians of the different colleges except the medical colleges were given the pay-scales of UGC. The Librarinas of Ayurvedic and Pharmacy colleges were granted the revised pay-scales. According to the petitioners, there was no valid reason for the respondents to give differential treatment to the petitioners and other Librarians working in the medical colleges and, therefore, they were required to agitate this question before the appropriate authorities. Since the issue did not get resolved, a petition came to be filed before this Court being Special Civil Application No. 1946 of 1982. In the said petition the Government's failure to concede to the demands of the Librarians working in the medical colleges of equal pay with the Librarians working in the Government and non-Government Arts, Commerce and Science colleges. The said petition came to be decided by the learned Single Judge of this Court [Coram : A.S. Qureshi, J.] by judgment dated 30th August, 1983. By the said judgment the learned Single Judge allowed the petition and directed that the Government resolution dated 6th October, 1979 with regard to revision of pay scale of the Librarians, also apply to Librarians working in the Government and non-Government medical and pharmacy colleges with effect from 1st January, 1973. The learned Single Judge has also directed the Government to work out the amount payable to such Librarians on account of the difference in the salary actually paid and that which the petitioners were

entitled to receive under that judgment to be worked out within a period of 3 months from the date of the judgment. It is stated by the learned counsel for the petitioners that all the present 14 petitioners were also the petitioners in the aforesaid Special Civil Application. By virtue of this judgment the Health and Family Welfare Department of the State of Gujarat passed a resolution dated 27th February, 1989, whereby the pay-scales prescribed by the UGC mentioned in the said resolution are made applicable to the Librarians of medical colleges affiliated to the Universities under the Medical Education Department of the State on certain conditions which have been enumerated in the said resolution. This benefit was to be given to the said Librarians with effect from 1st April, 1980. It appears that subsequently another resolution was issued by the Government on 17th June, 1989, whereby the benefit of senior scale and selection grade was made available to the senior petitioners of these petitions, since they had made a representation to the Government and the said representation was accepted by it.

2.1. However, this pleasant situation for the petitioners proved very short lived because the Government issued yet another resolution dated 15th September, 1989 whereby it suspended the earlier resolution dated 17th June, 1989 till further orders. This suspension was to take place with immediate effect. The petitioners have made a grievance that there is no obvious and valid reasons for suspending the resolution dated 17th June, 1989 and that too without giving any opportunity of hearing to the petitioners. Their say is that since the said decision of the Government was adverse to the interest of the petitioners, such opportunity ought to have been given to them. This resolution is now the subject matter of challenge in this petition.

2.2. It appears that after filing of these petitions certain developments in the form of issuance of different resolutions by the Health and Family Welfare Department of the State Government took place and accordingly, the petitioners amended this petition and brought on record all those resolutions.

3. Mr. Mukul Sinha, learned counsel for the petitioners has drawn my attention to the resolutions which have been subsequently passed by the aforesaid Department of the Government and also the resolution dated 17th June, 1989 and has submitted that though these resolutions adequately satisfy grievances of the

petitioners, the same are not being implemented for the reasons best known to the Government. The Health and Family Welfare Department of the Government of Gujarat vide its resolutions dated 27th June, 1991 granted to the Librarians of the medical colleges pay-scale of Rs.3,000-5,000 which was earlier Rs.2200-4000. Later on by resolution dated 9th March, 1992 the earlier resolution of 27th June, 1991 was amended and after the words "Rs.3000-5000 of senior scale" the words "Rs.3700-5700 of selection grade" came to be added. The said scales were made effective from 1st January, 1986. Yet by another circular dated 16th December, 1991 issued by the Education Department of the Government of Gujarat for grant of senior scale and selection grade it was decided that the educational qualification would not be relevant criteria, but the length of service i.e. the Librarians working under the Maherotra pay-scale for 8 and 16 years would be eligible to have the senior scale and selection grade.

4. Considering the aforesaid facts, it clearly appears that the petitioners are entitled to receive the benefits which have been extended to them by these resolutions issued by the Health and Family Welfare Department and Education Department of the Government of Gujarat. The petitioners' grievance is that despite such resolutions which have been passed after filing of these petitions the Government does not take any step to implement them. The grievance seems to be well justified. The Ld. A.G.P. for the Government has not been able to point out any cogent, valid and justifying reasons for denying these benefits to the petitioners. It appears that so far the amended petition is concerned, no reply has been filed by the respondents. In that view of the matter, the averments made by the petitioners will have to be accepted. Apart from that, even considering the merits of the said averments and also the fact that the petitioners have valid reasons to make aforesaid grievance before this Court with regard to inaction of the Government, the say of the petitioners is required to be accepted.

4.1. Mr. Sinha, learned counsel for the petitioners, during the course of hearing of this petition, has furnished a statement containing details of the petitioners which reflects that some of the petitioners have already been given partial reliefs. A copy of the said statement has also been served on the Ld. A.G.P. This statement is, therefore, ordered to be taken on record and to be treated as part of the present petition.

5. In view of the aforesaid discussion, these petitions deserve to be allowed. It appears that the resolution dated 15th September, 1989 at Annexure-Q, operation of which has been stayed up till now by virtue of the interim relief granted by this Court, is actually not cancelled by the Government, though the resolutions which have been referred to in the petition by way of amendment have come into existence later on, which have the effect of superseding the impugned resolution. In that view of the matter, a specific direction regarding quashing the said resolution is required to be issued. It is, therefore, ordered that the Government resolution dated 15th September, 1989 at Annexure-Q to the petition is quashed and set aside.

6. Considering the facts of the petition and also the earlier decision of this Court in Special Civil Application No. 1946 of 1982, it is held that the Librarians working in the Government Medical, Dental and Nursing Colleges affiliated to different Universities in the State are entitled to have equal treatment and they should be on par with the Librarians of other faculties and colleges in the matter of pay-scales and other incidental benefits. The respondents are, therefore, directed that in accordance with the aforesaid declaration they should grant such pay-scales to the petitioners and also the incidental benefits. They are also directed to work out the difference in salary which has been actually paid to them and the salary which may now be required to be paid to the petitioners on account of this judgment. Whatever benefits that have been already extended to the petitioners as mentioned in the statement furnished by Mr. Sinha, learned counsel for the petitioners, be given adjustment while carrying out this exercise. The respondents are directed to carry out this exercise and complete the same as early as possible and in any case not later than 31st December, 2002. Both these petitions are, therefore, allowed. Rule made absolute with no order as to costs.

7. Mr. Sinha informs the Court that during the pendency of this petition, petitioners nos. 2, 3, 4 and 8 have already retired from service and petitioner no. 6 - Mr. J.J. Paleja has expired and his heirs have already been brought on record of this petition. They are petitioners nos. 6.1 to 6.5. Similarly the petitioners of Special Civil Application No. 3396 of 1990 have also retired. So far the retired petitioners are concerned, the respondents are directed to pay to them the arrears of the difference of salary together

with all incidental benefits. They are further directed to work out the pensionary benefits which may now be available to the said petitioners and give effect to them. So far the deceased petitioner is concerned, the arrears and the incidental benefits may be paid to the heirs of the deceased petitioner and the family pension may also be fixed accordingly.

[Akshay H. Mehta, J.]

* Pansala.